# Public Service Pension Plan Board

1991

93-00684/

Alberta
GOVERNMENT PENSION BOARDS

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August 1992

The Honourable Dick Johnston
Provincial Treasurer

Sir:

I have the honour to submit to you the annual report of the Public Service Pension Plan Board for the period January 1, 1991 to December 31, 1991. The report outlines the roles and responsibilities of the Public Service Pension Plan Board under the legislation governing the plan.

Board activities during the period under review, with respect to its appellate and advisory roles, are described in the report.

Yours truly,

Debbie J. Horbach
Vice Chairman

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## INTRODUCTION

The calendar year 1991 is the sixth year of operation of the Public Service Pension Plan Board. The Board was established November 1, 1985 under the Public Service Pension Plan Act. At March 31, 1992 there were 51,203 active participants and 11,352 pensions in payment.

The main responsibilities of the Board are:

- to hear appeals of administrative decisions on pensions made by the Minister,
- to extend time limits under section 10 of the Act and under reciprocal agreements, and
- to advise the Minister responsible for public service pensions on matters relating to the Plan.

The Honourable Dick Johnston, Provincial Treasurer, is the Minister responsible for public service pensions. The Plan is administered by Alberta Treasury, Payroll and Pensions Division.

The Board is made up of five members who are appointed by the Lieutenant Governor in Council, representing employees, employers and the Government.

A description of the Board's appellate role is provided and a sample of appeals heard is included.

The roles of the Board are split between quasi-judicial and advisory. The quasi-judicial role of the Board is summarized in the section Summary of Appeals. A sample of appeal cases is provided for information. The advisory role is discussed in the section Advice.

## THE BOARD

Representation on the Board from all interested parties is guaranteed by its make-up. The employees and retired employees are represented by two members appointed by the Alberta Union of Provincial Employees (AUPE).

The employer's interest is satisfied by the appointment of a member from Personnel Administrative Office (PAO). PAO represents all employers who participate in the plan.

The Government, as representative of the public, has a member, who is responsible directly to the Minister. By assigning a person not employed by the Government in this capacity there is wider representation.

The Chairman is appointed by the Lieutenant-Governor-in-Council and is responsible for the leadership at Board hearings and meetings.

In support of the Board a small but efficient staff provides professional and technical service. The staff has been stable during the year. This stability has been of benefit as consistent service and advice is provided to the Board.

### J. E. Faries

Mr. Jerry Faries was appointed Chairman effective November 1, 1985. He has considerable background in pension policy and administration, having served over fifteen years as Director of the Pension Administration until December 31, 1979. He was a founding Director of the Association of Canadian Pension Management and was involved as Chairman of the Advisory Board of the Employee Benefit Certificate Program of the University of Alberta. He also holds several senior positions on other boards and community organizations. His term of office expires on June 30, 1992.

### A. F. (Chip) Collins

"Chip" Collins served as Deputy Provincial Treasurer from 1972 until his retirement in 1984. Mr. Collins was appointed a Board Member and Vice-Chairman of the Board effective November 1, 1985. He brings to the Board extensive financial and administrative expertise as well as senior public service experience. Mr. Collins is a government representative. His term of office expires on April 1, 1992.

**G. Heise**

Mr. Gilbert Heise, representing the employer, was appointed to the Board November 1, 1985. He has extensive experience in the employee benefit field. He is currently the Manager of Benefits and Salary Administration, Personnel Administration Office. His term of office expires on December 31, 1992.

**D. J. Horbach**

Mrs. Deborah Horbach received her education in Saskatchewan and attended various short courses through the Alberta Union of Provincial Employees. She has held various positions with the Treasury Branches in Lloydminster. She was a member and Vice-Chairman of the Benefits Board of Trustees for six and two years respectively. She was also a member of the Pension Board Advisory Council. Her term of office expires on December 31, 1992.

**M. J. Poulter**

Mr. Michael Poulter represents the employees. He attended the University of Alberta and has taught in both England and Alberta. He is a senior instructor at the Vocational College at Grouard and until recently program head, Local Government Administration. His involvement with the Alberta Union of Provincial Employees dates from 1972, and he has served for three terms as Vice President. His term of office expired on April 1, 1991.

**J. M. Hill**

Ms. Jackie Hill was appointed in June 1991 to replace Mr. Poulter as a representative from the Alberta Union of Provincial Employees (AUPE). Having worked as a Legal Secretary with private industry, Ms. Hill joined the secretarial staff of the AUPE in 1985. Since December 1990 she has taken up the position of union representative. Her term of office expires on April 1, 1995.

## SUMMARY OF APPEALS

### Provisions

The Act provides that decisions of the Minister, which adversely affect plan members' rights under the pension plan in any of the following areas, can be appealed:

| | |
|---|---|
| Participation | Contributions |
| Pensionable Service | Prior Service |
| Benefits | |

The Act also provides for application to the Board for extension of time limits in respect of pension benefits and benefit choices. Under the terms of the various reciprocal transfer agreements, the Board is empowered to extend time limits on breaks in service and on applications, at its discretion.

The provisions dealing with applications under section 10 and appeals under section 35 are outlined for easy reference in Appendix A - excerpts from the Act.

Parties aggrieved by a decision of the Board under section 36 of the Act may appeal to the Court of Queen's Bench within 30 days on questions of law or jurisdiction.

### Procedure

A ministerial prescribed Notice of Appeal form is normally provided to the plan member by Payroll and Pensions Division of Alberta Treasury with any adverse administrative decision. The aggrieved member must complete and submit this form when filing an appeal to the Board. It may also be used for applications for time limit extensions under the Act or under reciprocal transfer agreements.

Assistance to appellants is available from the Chairman's office. The individual may seek advice on what facts to gather and how these should be presented.

Though hearings are conducted in an informal manner, the Board is guided by the pension legislation and adheres to the principles of natural justice and fairness. The Board has published a Pension Appeal Process brochure which provides guidelines for members of the Alberta Pension Plans.

The Board has authorized the Chairman to reimburse appellants and applicants appearing before it for reasonable travel and out-of-pocket expenses. This ensures that all appellants and applicants have the opportunity to appear and present their cases irrespective of their places of residence.

**Summary of Appeals and Applications (1991)**

During 1991 the PSPP Board decided on 35 appeals and applications, compared to 15 in the previous year. The Board granted or varied 77% and 73% of the cases in 1991 and 1990 respectively.

In 1991, 83% of the appellants and applicants or their representatives attended their hearings before the Board. This compares to 93% in 1990.

Summary of Appeals and Applications for 1991, by categories, with comparative figures for 1990 - PSPP Board

| | 1991 | | | 1990 | | |
|---|---|---|---|---|---|---|
| Category | # | % of Total | % Granted or Varied | # | % of Total | % Granted or Varied |
| Reciprocal Transfer | 16 | 46% | 87.5% | 5 | 33% | 100% |
| Time Limit Extensions (Section 10) | 7 | 20% | 100% | 4 | 27% | 100% |
| Appeals (Section 35) | 12 | 34% | 50% | 6 | 40% | 33% |
| **TOTAL** | 35 | 100% | 77% | 15 | 100% | 73% |

Ten appeals were filed but did not require a hearing by the Board - the appeal provision was relied upon to facilitate a resolution and the cases were either granted by Payroll and Pensions Division (P & P) or withdrawn.

One case was heard by the Board but the decision was deferred to 1992.

The following is intended to provide a cross-section of appeals and applications and is not an exhaustive description of cases heard by the Board.

**Appeal 1 - Pension Commencement Date**

The appellant terminated employment with Government and left her Public Service Pension Plan (PSPP) contributions on deposit on June 30, 1982. In August 1988 P & P advised the appellant that she would be eligible to apply for a disability pension.

Within the same month, the appellant requested P & P to forward a statement of her pension account to her solicitor who in turn obtained a pension application form from P & P in May 1989. The Minister received the application on September 25, 1989 and approved it for a partial disability pension effective the same date. In August 1990 the appellant's solicitor requested that the pension be backdated because of extenuating circumstances. The Minister denied the request resulting in an appeal to the Board.

The appellant suffered an injury to her foot in July 1980. After the long term disability benefits were exhausted, she commenced to receive medical benefits under Unemployment Insurance. The appellant also suffered from a number of accumulative medical problems and was unable to accomplish anything when her condition worsened. She also cared for a head-injured husband.

When her termination of employment was processed, the appellant was not made aware of her eligibility for pension. She could not recall receiving an employee handbook explaining the various pension provisions. It was not until some time in 1988 that she learned through a friend about the disability pension and started enquiring with P & P.

The Board varied the Minister's decision and determined that the disability pension be made effective July 1, 1982. The reasons that the appellant had not applied earlier for a disability pension were (a) that she was under a lot of stress at time of termination of employment because of her own medical conditions and having to care for her husband, and (b) that she was not advised by her employer of her right to apply for a disability pension.

**Appeal 2 - Application for a Time Limit Extension for Reciprocal Transfer**

The applicant requested a transfer of her pension credits and contributions from the Manitoba Health Sciences Centre (MHSC) to the Public Service Pension Plan (PSPP). Her application was denied by Payroll and Pensions (P & P) because of a break in service of more than three months. Therefore, she applied to the Board for an extension of the time limit to allow the transfer.

The applicant moved to Quebec in February 1990 when her husband was transferred by the military to take a course there. She was unable to find employment there because she did not speak French. Also there was no transfer agreement between Quebec and the MHSC. She moved back to Edmonton on July 13, 1990 when her husband completed his course. She began her job in nursing with the importing employer on July 30, 1990.

The Board extended the time limit to allow the transfer based on the reasons that the applicant was 'forced' to move with her husband to Quebec and that she was unable to find employment during the break in service.

**Appeal 3 - Purchase of a Leave of Absence**

Prior to joining the Alberta Government for the third time in April 1972, the appellant had two periods of employment with the same department. On both occasions he had received a refund of the pension contributions at termination of employment. Subsequently, the appellant arranged to pay for his previous Government service which was fully paid up in October 1982. In April 1990 the appellant questioned the length of service credited to his account. He requested to have the period September 1971 to April 1972 established for pension purposes. The Minister denied his request on the grounds that the period was ineligible since the appellant was a university student during that time and that it was not considered a leave of absence due to termination of employment.

During the period in question, the appellant upgraded his education at the university. To qualify for a bursary he was required to terminate employment and he did. In retrospect, he was unable to find any document on file to substantiate this policy. He was required to fulfil a return to service commitment of four years while the employer guaranteed a job on return. He emphasized that there was virtually no communication between the employees and employer about pension matters until recent restructuring of the department.

The Minister's representative questioned the Board's jurisdiction since the issue was dealt with under the regulations established by the Lieutenant Governor in Council. The Board determined that it had authority to deal with the issue arising out of the Minister's decision made either under the Act or the Regulations.

In respect of the time limit to file his appeal, the Board extended the 30-day to hear the appeal based on the following. The appellant received no counselling about his pension situation and time limit at his work site. Secondly, the appellant tried to establish a period of service with another employer and that service was determined by P & P to be ineligible. He therefore decided to pursue the service in question. Thirdly, the appellant attempted to obtain pension information from various sources but was unsuccessful.

Regarding the eligibility of the period, the Board confirmed the Minister's decision on the basis that the appellant was not an employee during that time. The appellant was not granted leave of absence and there was no supervision on his studies.

**Appeal 4 - Prior Service While Attending a Technical Institute on a Bursary Program**

The appellant requested to establish two periods (September 1966 to June 1967 and September 1967 to June 198) for pension purpose. He attended the Northern Alberta Institute of Technology (NAIT) at that time and received a monthly bursary of $100 from the Alberta Government. The Minister denied the application on the basis that there was no evidence of an employment relationship for those periods. The participants of the programme were called students and were not granted educational leave by the department.

The appellant received subsidized technical training under the auspices of the Government, followed by two years of Government employment in a permanent salaried position. An employee/employer relationship existed during the programme since he was required to sign a contract with Government and most of the conditions of leave without pay applied to the programme. While working for the Government he was encouraged by his supervisor to participate in the technical upgrading programme. Also during the school breaks he was employed by the department.

The Board granted the appeal based on the following:

> The Government sponsored the bursary programme and paid a monthly amount.
>
> The programme included a commitment of return to service for two years by the employee.
>
> There was a contract and control by Government during the training periods.

ADVICE:

The Minister indicated early in 1991 that he contemplated introducing legislation to meet new Federal Income Tax Act requirements and making a number of "financing, benefit and administrative changes" to the Public Service Pension Plan. The Minister brought forward a package of proposals on July 9th, 1991. The Minister requested that the Board respond by the end of September and encouraged plan stakeholders to use the PSPP Board as an avenue to present their views. As a result, the focus of the Board's advisory role in 1991 was to advise the Minister of plan member concerns.

Compliance with the Federal Income Tax Act was important to ensure that required employee contributions remained tax deductible. The plan had to be administered on the new basis effective January 1, 1992. With no guarantee of a Fall sitting, the Board agreed to interim legislation that would allow the plan to be changed through regulation. This legislation had a one year sunset clause and the Board was assured that it would have the opportunity to review the regulations in draft form prior to their submission to Cabinet.

The new Federal Income Tax rules affected the PSPP in a number of ways. The Board responded to draft regulations presented to it in early November and continued to monitor the implementation of administrative changes. The Board recognized the necessity for many of the changes but was very sensitive to the issue of adequate notice to plan participants. In addition, some changes such as replacing the existing early retirement reduction tables with a flat 3% rate was open to interpretation as to whether it was required to meet the Federal rules. The Board raised these and other concerns with the Minister and the Minister has deferred any change in early retirement to July 1, 1992 in consultation with the Board and a transitional provision was included to allow individuals who were eligible to retire on December 31, 1991 to back date their retirement if they wished.

The bulk of the Minister's July 9th proposals represented a broader pension reform initiative. The Minister is to be commended for attempting to address a number of long standing concerns regarding funding and portability. Included in the proposals was a plan to fully fund Provincially administered pension plans' past service liability, a requirement that employers and employees fully fund future service, the formal recognition of indexing of pensions at 60% of inflation, improved portability of future service benefits, the removal of prior service purchases and the cancelling of reciprocal agreements.

The Board's response to the Minister was presented on September 30, 1991 and copies are available upon request. The Board's response reflected the concerns of both employee and employer participants in the plan. The PSPP has a number of

employers including Universities and various Boards, Agencies and Commissions which rely to various degrees on Government for funding. The Board took care to distinguish between government as plan sponsor and government as one of several employers in the plan. Specific concerns included:

1) Historically, the plan was sponsored and guaranteed by the province. Throughout the plan's history, the government has maintained and strengthened its grip on the decision-making process. Therefore, the decision to ask employees and employers to share in funding the past service unfunded liability was unjustified.

2) The plan should be properly funded in the future.

3) Formal recognition of indexing at 60% of Alberta CPI was considered by the majority to be too low.

4) A number of plan provisions, such as cancelling reciprocal agreements, eliminating prior service purchases, and increasing early retirement factors for all service, were regressive in nature.

5) The pension deal that was originally agreed to and implemented in the past appears to be no longer desirable by government. The proposal would change the pension deal from a partially funded provincially guaranteed defined benefit plan to a full self-funding employer/employer defined benefit plan. Unless the governance consequences of the "new pension deal" were addressed, there would be no legitimacy to impose the discipline of full self-funding on employees and employers.

The Board responded to these concerns with specific recommendations. The view of the Board was that the recommendations should be taken as a package tied together by a single underlying issue of governance. The recommendations noted below were contingent upon the resolution of the governance issue.

1) The governance of the PSPP be so established to provide joint trusteeship of stakeholders.

2) Combined employee and employer contributions be set equal to the annual pension cost of the pension plan upon recommendation number one being implemented.

3) Indexing be formally recognized as part of the pension formula at a minimum level of 60% of Alberta CPI with the ability of the trustees of the plan to enhance the level up to 100% when the funding allows.

4) A number of plan provisions, such as the provision to purchase prior service and reciprocal transfer agreements, must be retained on the basis that they be properly funded.

5) Early retirement reduction factor on service after January 1, 1992 be set at 3% for each year the member retires early.

The Board presented its report with the intention to commence a dialogue that would be necessary to achieve a solution that would be acceptable to all parties to the "pension deal". Through the balance of 1991, the Minister and the Board have continued to meet to develop a framework on which to deal with stakeholder concerns. The Board held an informal briefing with representatives of plan participants and it is expected that a formal framework will be concluded by early 1992.

## APPENDIX A

*Excerpts from the Act*

*The following excerpts of the Public Service Pension Plan Act define the make-up and responsibilities of the Public Service Pension Plan Board.*

***Establishment, composition, term of office, etc.***

*5(1) There is hereby established a board known as the Public Service Pension Plan Board.*

*(2) The Board shall consist of not fewer than 5 persons appointed members of the Board by the Lieutenant Governor in Council.*

*(3) The Lieutenant Governor in Council shall appoint 1 of the members of the Board from among persons nominated by the Alberta Union of Provincial Employees.*

*(4) A member of the Board holds office for the term fixed in relation to him by the Lieutenant Governor in Council.*

*(5) The Minister may prescribe the remuneration and expenses to be paid to members of the Board.*

*(6) The Board may make rules respecting the calling of and the conduct of business at its meetings.*

***Chairman and Vice-chairman***

*6(1) The Lieutenant Governor in Council shall designate one of the members of the Board to be the chairman and another member to be the vice-chairman of the Board.*

*(2) The vice-chairman shall act as chairman when the office of the chairman is vacant or when the chairman is absent or unable to act.*

***Support services***

*7 The Minister shall provide such supplies, services and accommodation as he considers necessary to enable the Board to fulfil its objects.*

***Objects of the Board***

*8 The objects of the Board are*

*(a) to conduct the hearing of appeals under Part 6;*

*(b) to provide advice to the Minister under section 9;*

(c) *where appropriate, to extend time limits and treat benefit choices as revoked under section 10;*

(d) *to exercise and perform any other powers and duties assigned to it by this Act and the regulations;*

(e) *to perform any other duties relating to the Plan that are assigned to it by the Minister.*

***Advisory functions of the Board***

9 *The Board may advise the Minister respecting any matters relating to the Plan, including*

(a) *the adequacy of contributions to meet benefits,*

(b) *adjustments to pensions under section 27,*

(c) *rates of interest for the purposes of the Plan,*

(d) *benefits,*

(e) *reciprocal agreements,*

(f) *recognition of prior service,*

(g) *eligibility and participation in the Plan, and*

(h) *the actuarial tables prescribed or to be prescribed by the Minister.*

***Board's power to extend time limits, etc.***

10(1) *Where*

(a) *a person fails to meet a time limit under the Plan,*

(b) *the failure will or could result in a person's obtaining different benefits than those he would have obtained had the time limit been met, and*

(c) *the Board is satisfied that the failure results from circumstances that import no material fault on the part of that person,*

*the Board may, on application to it, extend the time limit.*

*(2) Where*

*(a) the circumstances set out in subsection (1)(a), (b) and (c) apply,*

*(b) the benefit has been received or has commenced to be paid, and*

*(c) the Board is satisfied that a choice, including a deemed choice, that would otherwise be irrevocable under section 40(2) could materially prejudice the best interests of the recipient or his dependants,*

*the Board may, on application to it, treat that choice as revoked, extend the time limit for making the choice and order any consequential adjustments in the benefits.*

*(3) Where*

*(a) a benefit choice has been made, and*

*(b) the Board is satisfied that*

*(i) the choice communicated to the Minister was not that which the person making the choice actually intended, and*

*(ii) the application mentioned in this section does not result from a change in a person's circumstances affecting the choice,*

*the Board may, on application made to it within 3 months from the date when the benefit was received or commenced to be paid, treat the choice as revoked and substitute for it the choice which, in the Board's opinion, the person originally intended to make and order any consequential adjustments in the benefits.*

***Appeal to the Board***

*35(1) A party aggrieved by a decision of the Minister under or in relation to Parts 2 to 5 or the prescribed provisions of the regulations, other than a decision under section 32 or one that could be the subject-matter of an application under section 10, may appeal against that decision to the Board.*

(2) *A party wishing to appeal to the Board under this section must serve the chairman of the Board with a notice of appeal in the form prescribed by the Minister within 30 days of being notified in writing of the decision appealed against or within such longer period as the Board may, on application, allow.*

(3) *The notice of appeal must specify the decision appealed against and the grounds of appeal.*

(4) *The Board may identify persons who may be interested in the appeal and may give directions as to the persons to be served with the notice of appeal, whether or not they are parties.*

(5) *For the purposes of conducting an appeal under this section, the Board*

(a) *has all of the duties, powers, privileges and immunities given to a commissioner appointed under the Public Inquiries Act by sections 3, 4, 7 and 9 of that Act, and*

(b) *shall be deemed to be a person for the purposes of section 1(a) of the Administrative Procedures Act.*

(6) *the Board may confirm, vacate or vary the decision appealed against.*

(7) *The Board shall serve the appellant and persons who received a notice of appeal with a copy of its decision, including the reasons for the decision.*

***Appeal to the Court of Queen's Bench***

36(1) *A party aggrieved by a decision of the Board under section 35 may, within 30 days of the date of service of the Board's decision on him or such longer period as the Court may allow, appeal to the Court of Queen's Bench on a question of law or jurisdiction.*

(2) *The procedure in an appeal to the Court of Queen's Bench shall be the same as that provided in the Alberta Rules of Court for applications by originating notice.*

(3) *The Court of Queen's Bench, on hearing the appeal, may confirm, vacate or vary the decision of the Board or make any order it considers just.*

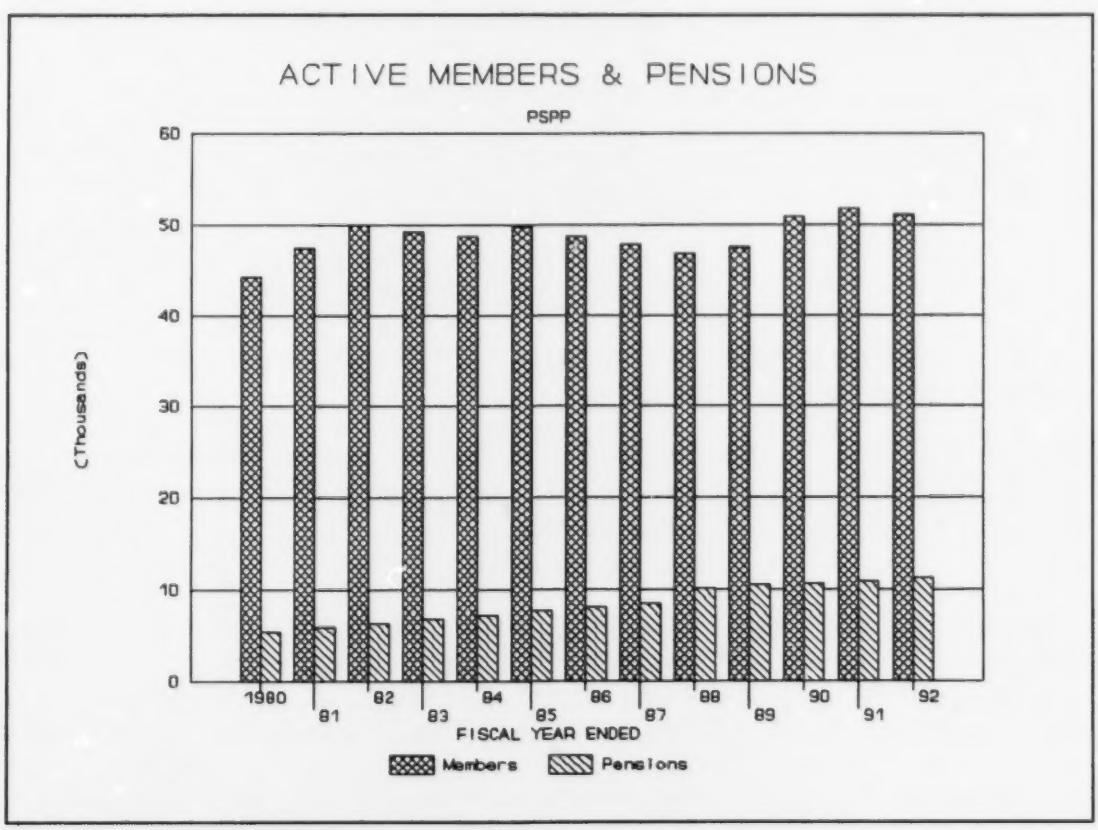
## APPENDIX B

**Summary of Plan Statistics**

Statistics are provided by Payroll and Pensions Division of Alberta Treasury and interpreted by the Alberta Government Pension Boards office.

A. Active Members

Active membership in the Public Service Pension Plan increased from 44,357 at March 31, 1980 to 51,203 as at March 31, 1992. The following graph shows the relative changes from 1980 through 1992:



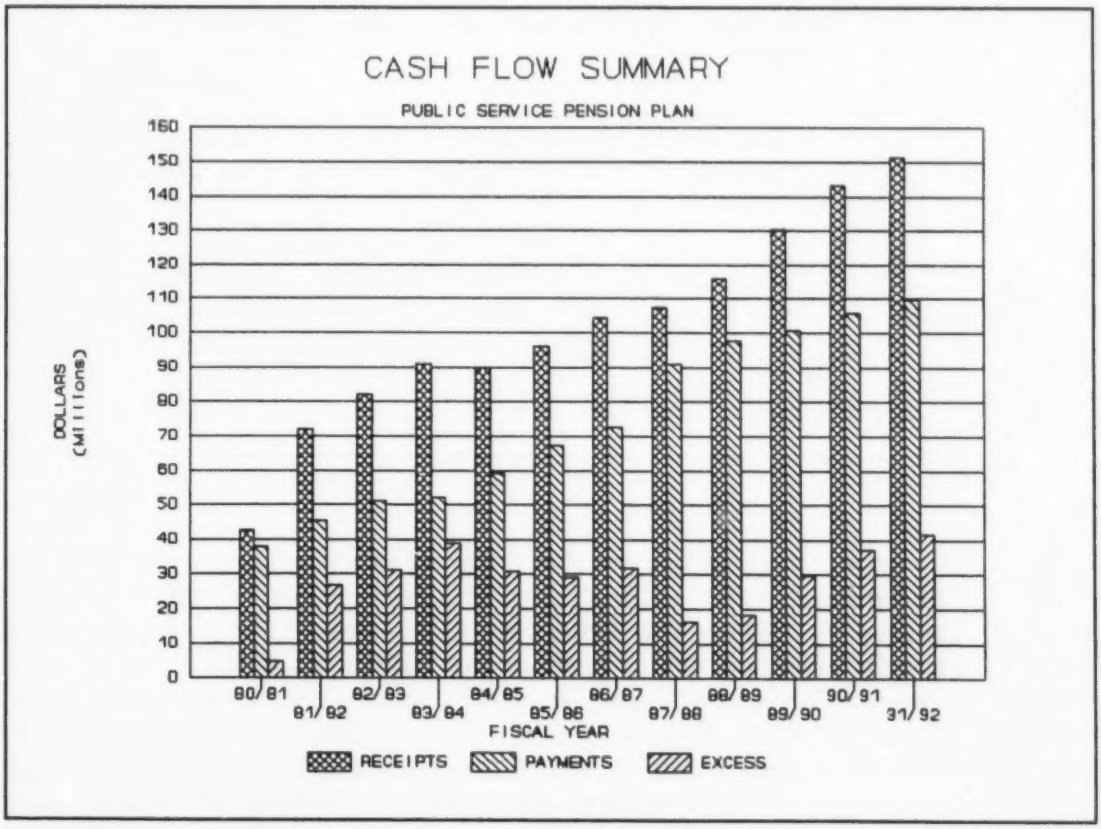
B. Pensions in Payment

Pensions in payment increased from 5,430 at March 31, 1980 to 11,352 as at March 31, 1992. The graph above illustrates the relative increases.

The average pension in payment was $401.01 per month on March 31, 1980 and increased to $695 per month for pensioners and $528 per month for surviving spouses on March 31, 1992.

C. Cash Flow Summary

The graph below reveals that receipts were $42,573,163 in fiscal year 1980/81 and increased to $151,376,000 in fiscal year 1991/92. Payments increased from $37,802,179 in fiscal year 1980/81 to $109,690,000 in fiscal year 1991/92. The excess contributions were $4,770,984 in fiscal year 1980/81 and $41,686,000 in fiscal year 1991/92.



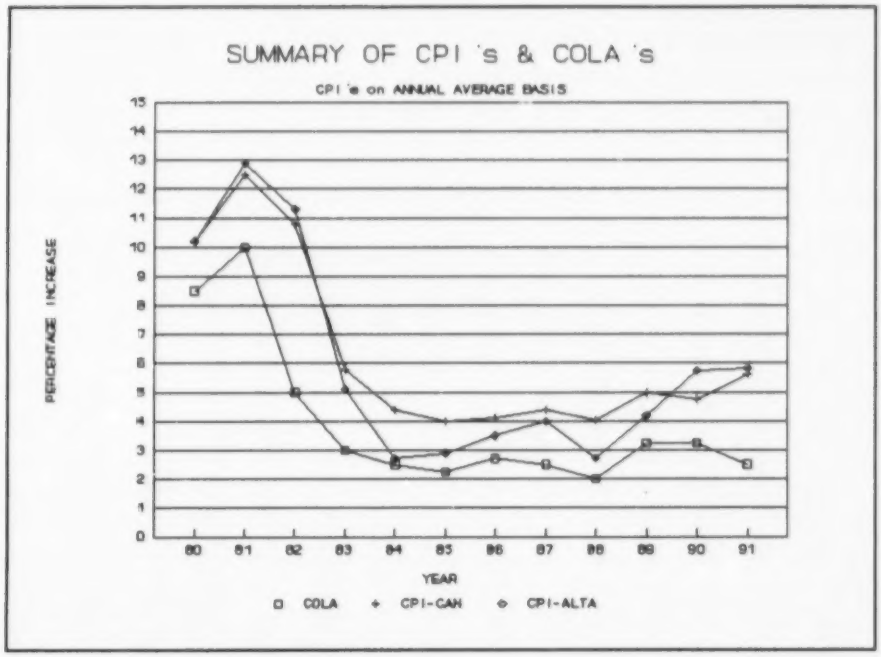
## APPENDIX C

**Board Recommendations**

1. **COLA:**

**Status Quo**

Cost of living adjustments to the plan are granted annually (since 1962) by the Minister. The actuarial valuations contemplate a COLA on the basis of 75% of the Consumer Price Index (CPI). The actual COLA that has been granted has fallen short of that target level through out most of the last 12 years.




The graph above shows the COLA's granted on January 1 following the years 1980 through 1991, i.e. the COLA of 3.25% shown for 1990 was granted on January 1, 1991. The Consumer Price Index (CPI) increases are for the calendar years, i.e. CPI-CAN shown for 1990 is the 4.8% increase in the 1990 average CPI over the 1989 average CPI. During the 12-year period the average annual increases were as follows: Canada CPI - 6.3%, Alberta CPI - 5.9%, COLA's granted - 3.9%. Similarly, during the 5-year period 1987 through 1991 the average annual increases were as follows: Canada CPI - 4.7%, Alberta CPI - 4.5%, COLA's granted - 2.7%.